

(ii) In States without Plans approved under section 18, no Federal reimbursement for consultation provided to State and local governments will be allowed, although this activity may be conducted independently by a State with 100 percent State funding.

[49 FR 25094, June 19, 1984, as amended at 65 FR 64291, Oct. 26, 2000]

§ 1908.4 Offsite consultation.

The State may provide consultative services to employers on occupational safety and health issues by telephone and correspondence, and at locations other than the employer's worksite, such as the consultation project offices. It may, under limited conditions specified by the Assistant Secretary, include training and education.

§ 1908.5 Requests and scheduling for onsite consultation.

(a) *Encouraging requests*—(1) *State responsibility*. The State shall be responsible for encouraging employers to request consultative assistance and shall publicize the availability of its consultative service and the scope of the service which will be provided. The Assistant Secretary will also engage in activities to publicize and promote the program.

(2) *Promotional methods*. To inform employers of the availability of its consultative service and to encourage requests, the State may use methods such as the following:

- (i) Paid newspaper advertisements;
- (ii) Newspaper, magazine, and trade publication articles;
- (iii) Special direct mailings or telephone solicitations to establishments based on workers' compensation data or other appropriate listings;
- (iv) In-person visits to workplaces to explain the availability of the service, and participation at employer conferences and seminars;
- (v) Solicitation of support from State business and labor organizations and leaders, and public officials;
- (vi) Solicitation of publicizing by employers and employees who have received consultative services;
- (vii) Preparation and dissemination of publications, descriptive materials, and other appropriate items on consultative services;

(viii) Free public service announcements on radio and television.

(3) *Scope of service*. In its publicity for the program, in response to any inquiry, and before an employer's request for a consultative visit may be accepted, the state shall clearly explain that the service is provided at no cost to an employer with federal and state funds for the purpose of assisting the employer in establishing and maintaining effective programs for providing safe and healthful places of employment for employees, in accord with the requirements of the applicable state or federal laws and regulations. The state shall explain that while utilizing this service, an employer remains under a statutory obligation to provide safe and healthful work and working conditions for employees. In addition, while the identification of hazards by a consultant will not mandate the issuance of citations or penalties, the employer is required to take necessary action to eliminate employee exposure to a hazard which in the judgment of the consultant represents an imminent danger to employees, and to take action to correct within a reasonable time any serious hazards that are identified. The state shall emphasize, however, that the discovery of such a hazard will not initiate any enforcement activity, and that referral will not take place, unless the employer fails to eliminate the identified hazard within the established time frame. The state shall also explain the requirements for participation in the recognition and exemption program as set forth in §1908.7(b)(4), and shall ensure that the employer understands his or her obligation to post the List of Hazards accompanying the consultant's written report.

(b) *Employer requests*. (1) An onsite consultative visit will be provided only at the request of the employer, and shall not result from the enforcement of any right of entry under state law.

(2) When making a request, an employer in a small, high hazard establishment shall generally be encouraged to include within the scope of such request all working conditions at the worksite and the employer's entire safety and health program. However, a more limited scope may be encouraged